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October 6, 1988

RECORDATION NO. 15882 Filed 1988

OCT 18 1988-2 PM

INTERSTATE COMMERCE COMMISSION

Ms. Noreta R. McGee
Secretary of the Interstate
Commerce Commission
Washington, D.C. 20423

Dear Ms. McGee:

Enclosed please find, for filing and recordation pursuant to Section 11303 of Title 49 of the United States Code and the regulations promulgated thereunder, one fully executed copy and five certified copies of a Memorandum of Lease of Railroad Equipment.

I. Document: Memorandum of Lease of Railroad Equipment dated as of September 30, 1988. This document is a primary document and has not been previously filed.

A. Parties: Lessor: IBJ Schroder Leasing Corporation
Lessee: Rinker Materials Corporation

B. Addresses: Lessor: One State Street
New York, New York 10004
Attn: Gerard D. Cannie
Vice President - Operations

Lessee: 1501 Belvedere Road
West Palm Beach, Florida 33406
Attn: Laurence Freedman
President - South Region

C. Equipment: Fifty five (55) 2301 cubic foot capacity 100-ton open top hopper cars bearing road numbers KAIX 1000-1054.

Please cross-index the Memorandum of Lease with the following document:

Recordation No. ____; Bill of Sale dated September 30, 1988 by CIT Corporation in favor of IBJ Schroder Leasing Corporation, filed simultaneously herewith.

Enclosed is a check of this firm in the amount of \$26.00 to cover the filing fee for the primary document (\$13.00), and the fee for the cross-indexing (\$13.00).

Continued - 11/1

Ms. Noreta R. McGee
October 6, 1988
Page Two

A short summary of the document to appear in the Index is as follows:

Memorandum of Lease of Railroad Cars covering among other things fifty-five (55) 2301 cubic foot capacity 100-ton open top hopper cars, Road Numbers KAIX 1000-1054.

Once the filing has been made, please return the stamped copies of the documents not required for filing purposes, together with the fee receipt, the letter from the ICC acknowledging the filing, and the two extra copies of this letter of transmittal.

The undersigned certifies that she is acting as special counsel to IBJ Schroder Leasing Corporation for purposes of this filing and that she has knowledge of the matters set forth in the above described documents.

Sincerely,

A handwritten signature in cursive script, reading "L. Celeste H. Blumer". The signature is written in dark ink and is positioned above the typed name.

L. Celeste H. Blumer

Enclosures

LCHB:its

Interstate Commerce Commission

Washington, D.C. 20423

10-18-88

OFFICE OF THE SECRETARY

Manwell & Wes
Citicorp Center
One Sansome Street
San Francisco, CA. 94104

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10-18-88 at 230 PM, and assigned recordation number(s). 15882

Sincerely yours,



Secretary

Enclosure(s)

RECORDATION NO. 15882
FILED 1420

OCT 13 1988-2 44 PM

MEMORANDUM OF
LEASE OF RAILROAD EQUIPMENT

INTERSTATE COMMERCE COMMISSION

THIS MEMORANDUM OF LEASE OF RAILROAD EQUIPMENT is intended to evidence the Lease of Railroad Equipment, dated as of September 30, 1988 (the "Lease") between IBJ Schroder Leasing Corporation, a New York corporation (the "Lessor") and Rinker Materials Corporation, a Florida corporation (the "Lessee"), for the purposes of satisfying the requirements of recordation with the Interstate Commerce Commission under Section 49 U.S.C. 11303. The Lessor is the owner of fifty-five (55) 2301 cubic foot capacity 100-ton open top hopper cars more fully described in Annex A hereto (the "Cars"). The Lessee leased from the Lessor all the Cars at the rentals and upon the terms and conditions provided in the Lease, attached hereto as Annex B.

IN WITNESS WHEREOF, the Lessor and the Lessee, each pursuant to due authority, have executed this Memorandum of Lease as of this 30th day of September, 1988.

"Lessor"

IBJ SCHRODER LEASING CORPORATION

Attest:

John M. Cutting
Title: Asst. Treasurer

By:

Gerard D. Cannie
Title: VICE PRESIDENT - OPERATIONS

"Lessee"

RINKER MATERIALS CORPORATION

Attest:

William J. Payne
Title: Assistant Secretary

By:

Laurence C. Freedman
Title: President, South Region

**ANNEX A
TO
MEMORANDUM OF
LEASE OF RAILROAD EQUIPMENT
DATED AS OF SEPTEMBER 30, 1988**

Equipment Description

Road Numbers

Fifty-five (55)
2301 cubic foot capacity
100-ton open top hopper cars.

KAIX 1000-1054

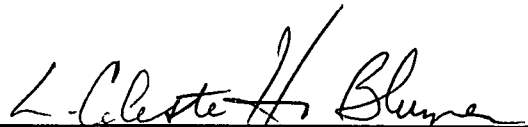
STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

AFFIDAVIT

I, L. Celeste H. Blumer, being first duly sworn, depose and say:

1. I am an attorney, licensed to practice in the State of California.

2. I have reviewed the attached copy of the Lease of Railroad Equipment dated as of September 30, 1988 and compared said copy with the original document and found the copy to be complete and indential in all respects to the original document.



L. Celeste H. Blumer

Subscribed and sworn to before me this 6th day of October, 1988 at San Francisco, California.

[SEAL]





Notary Public

LEASE OF RAILROAD EQUIPMENT

BETWEEN

IBJ SCHRODER LEASING CORPORATION

AND

RINKER MATERIALS CORPORATION

LEASE OF RAILROAD EQUIPMENT

LEASE OF RAILROAD EQUIPMENT, dated as of Sept. 30th, 1988 between IBJ SCHRODER LEASING CORPORATION, a New York corporation, (hereinafter called the "Lessor") and RINKER MATERIALS CORPORATION, a Florida corporation (hereinafter called the "Lessee"). The term "Affiliate" as used hereinafter means RMC Holdings (USA) LTD. and subsidiary companies. The term "Manager" as used hereinafter means Helm Financial Corporation.

WHEREAS, the Lessee desires to lease from the Lessor up to one hundred 2,301 cubic foot capacity open top hopper cars (100 ton) and the Lessor desires to lease such cars to the Lessee;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor and Lessee agree as follows:

1. Delivery and Acceptance of Units.

(a) The Lessee will accept cars offered for lease hereunder on the lines of the Southern Pacific Transportation Company at Houston and Orange, Texas (hereinafter called the "Acceptance Point"), whereupon each accepted car ("Unit") shall be subject thereafter to all terms and conditions of this Lease. Upon acceptance of a Unit, the Lessee shall execute and deliver a Certificate of Acceptance to the Lessor (in the form of Exhibit A hereto) indicating those Units formally accepted. The Lessor agrees to be responsible for any transportation cost of moving the Units from Houston and Orange, Texas to the lines of the CSX Transportation Company in New Orleans, Louisiana. The Lessee shall be responsible for any transportation costs of moving the Units from New Orleans, Louisiana to Sterling, Florida. The Lessor agrees to furnish the Units in compliance with the Field Manual of the A.A.R. Interchange Rules as in effect on January 1, 1988 and as may be amended from time to time (the "AAR Rules") and in accordance with the FRA Railroad Freight Car Safety Standards, 49 CFR, Part 215, as amended (the "Safety Standards"). Lessee, at its expense, shall have the right to

inspect and reject the Units subject to this Lease, prior to the Lessor's transporting the Units from their present locations. The Lessor may, at its option, furnish Lessee with substitute Units for any or all Units rejected by Lessee or may, at its option, eliminate any or all Units rejected by Lessee from the terms, conditions and obligations of this Lease without any substitutions therefor.

(b) The Lessor represents that it will be the Owner of and will have free and clear title to each Unit and any replacement Units,

2. Car Hire Earnings. Upon acceptance of the Units as set forth in Paragraph 1 hereof, with reporting marks on each Unit as set forth in Paragraph 5, Lessee shall enjoy all car hire earnings (per diem and mileage) thereafter until the expiration or sooner termination of this Lease. Lessor shall not be responsible for collection of car hire earnings and such responsibility shall lie solely with Lessee.

3. Rentals. Rental shall accrue for each Unit from (a) the date it is delivered to the Lessee at Sterling, Florida or (b) ~~the date the Unit is delivered to the lines of CSX Transportation Company Inc. in New Orleans, Louisiana, whichever is earlier.~~ All such rental accrued during each month shall be payable on the ~~the~~ ~~date~~ ; provided however that monthly rental shall be payable ~~the~~ commencing on December 31, 1988 or, if earlier, the ~~date~~ of the ~~date~~ during which the last of the Units accepted by the Lessee pursuant to paragraph 1(a) is delivered to Sterling, Florida. The first date on which ~~the~~ rental is so payable shall be the "Effective Date" of this Lease. The term of this Lease shall expire sixty months after the Effective Date. Rental shall be payable for each Unit until it is returned to the Lessor at the end of the term of this Lease or as otherwise provided in this Lease.

Unit: Rental rates shall be in the following amounts per

<u>Period</u>	<u>Per Unit Monthly Lease Rate</u>
To Effective Date	
Months 1 through 12	★
Months 13 through 24	
Months 25 through 36	

★ The figures and terms are set forth in the original lease

<u>Period</u>	<u>Per Unit Monthly Lease Rate</u>
Months 37 through 48	★
Months 49 through 60	
Post Expiration until return of Unit	

Rental for any Unit for any partial month shall be prorated on a daily basis. Payment of rentals shall be made to the Lessor at Lessor's address specified in Section 16, or to such other place as Lessor may direct. Any costs incurred by the Lessor in collecting rental, including reasonable attorneys' fees shall be paid by the Lessee on demand.

It is understood that the Affiliate hereby agrees to guarantee all rental and other sums to be paid under this Lease. In the event the Lessee shall be in default in the payment of any such sum of money to be paid under this Lease, whether rental or otherwise, the Lessee shall pay the Lessor, as additional rental, to the extent permitted by applicable law, interest on such unpaid sum from its due date to date of payment by the Lessee at a rate equal to ★ per annum.

Except as provided in Section 9 below, this Lease is a lease which includes maintenance, however the Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor, the Manager or any other person; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against Lessee's use of all or any of the Units, or the interference with such use by any private person or governmental entity, it being the intention of the parties hereto that the rents and other payments payable by the Lessee hereunder shall continue to be payable in the manner and at the times herein provided. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any Units except in accordance with the express

★ The figures and terms are set forth in the original lease

terms hereof. The rentals and other sums payable by the Lessee hereunder shall be paid without notice, demand, counterclaim, or defense by reason of any circumstance or occurrence whatsoever except as provided herein.

4. Survival of Obligations.

The obligations of the Lessee hereunder (including, but not limited to, the obligations of the Lessee under Paragraphs 6, 9 and 11 hereof) shall survive the expiration or sooner termination of this Lease.

5. Identification Marks. The Lessor will cause each Unit to be kept numbered with its identifying number and will stencil, plainly, distinctly, permanently and conspicuously marked on each side of such Unit in letters not less than one inch in height, the words "Ownership subject to a security agreement filed with the Interstate Commerce Commission" or other appropriate words designated by the Lessor. The Lessee will keep and maintain the identifying numbers and other wording supplied by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor and the rights of the Lessor under this Lease. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not permit the identifying number of any Unit to be changed except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded and deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership.

6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state or federal taxes, assessments or licenses and any charges, fines or penalties in connection with or measured by, this Lease or

any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof all of which taxes, assessments, licenses, charges, fines and penalties the Lessee assumes and agrees to pay in addition to the payments to be made by it provided for herein. The Lessee will also pay all taxes, assessments or licenses (and any charges, fines or penalties in connection therewith) which may be imposed upon any Unit or for the use or operation thereof and will keep at all times all and every part of such Unit free and clear of all taxes and assessments which might in any way affect the title of the Lessor or result in a lien upon any such Unit except liens which are not yet delinquent or are being contested by Lessee in good faith by appropriate proceedings and where in Lessor's reasonable opinion there is no danger of the sale, forfeiture or loss of the Units or any part or item thereof. By Lessor's delivery of the Units, Lessor represents that there are no liens upon any Unit nor any unpaid taxes or assessments, which would impair the Lessee's quiet enjoyment of the Units during the term of this Lease.

7. Loss, Damage or Destruction.

(a) Risk of Loss, Damage or Destruction. As between Lessee and Lessor and any Manager or Assignee of Lessor, Lessee hereby assumes all risk of loss, damage, theft, taking, destruction, confiscation, requisition or commandeering, partial or complete, of or to each Unit, however caused or occasioned (provided that Manager and Lessor shall be responsible for any and all damage and liabilities caused by Manager or Lessor respectively), such risk to be borne by Lessee with respect to each Unit from its Acceptance Date, and continuing until such Unit has been returned to Lessor in accordance with the provisions of Paragraph 11 hereof. Lessee agrees that, except as otherwise provided herein, no occurrence specified in the preceding sentence shall impair, in whole or in part, any obligation of Lessee under this Lease, including, without limitation, the obligation to pay rent.

(b) Casualty Occurrence. In the event that any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged or obsolete or economically unserviceable for use from any cause whatsoever, or any Unit shall be condemned,

confiscated, or seized, or the title to or use of any Unit shall be requisitioned for a period of ★ continuous days (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall on the next succeeding rental payment date after it shall have determined that such Unit has suffered a Casualty Occurrence, fully inform the Lessor in regard thereto. On such date the Lessee shall pay to the Lessor an amount equal to the accrued rental for such Unit to the date of such payment. Upon the making of such payment by the Lessee in respect of a Unit, the rental for such Unit shall cease to accrue as of the ★, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. If the Casualty Occurrence is deemed to be the responsibility of the railroad transporting such Units, any payment received from such railroad pursuant to Rule 107 of the AAR Rules shall be credited against Lessee's obligation under this section 7. Lessor has the right, in its sole discretion, to replace any Unit which has suffered a Casualty Occurrence, and such replacement Units will be subject to this Lease as if originally a part thereof.

In the event damage beyond repair or destruction of a Unit occurs while on the property of the Lessee and not the responsibility of the railroad, the Lessee will pay to the Lessor the appropriate amount due in accordance with Rule 107 of the AAR Rules. Lessor has the right, in its sole discretion, to replace any and all Units destroyed or damaged beyond repair, and such replacement Units will be subject to this Lease as if originally a part thereof.

Upon payment by Lessee to Lessor of the settlement value of any unit as hereinabove provided, so long as Lessee is not in default hereunder, such Units and/or devices shall become the property of the Lessee.

In order to facilitate the sale or other disposition of any Unit which becomes Lessee's property as hereinbefore provided, Lessor shall, upon request of Lessee, execute and deliver to Lessee or to Lessee's vendee, assignee or nominee, a bill of sale for such Unit, warranting title free and clear of all liens, security interests, and other encumbrances

★ The figures and terms are set forth in the original lease

(except such as may have arisen by, through or under Lessee during the term of this Lease) and such other documents as may be required to release such Unit from the terms and scope of this Lease and from any other lien or encumbrance of Lessor's making, undertaking or sufferance, in such forms as may be reasonably required by the Lessee.

8. Report and Inspection. On or before January 31 in each year, commencing with the calendar year 1989, the Lessee will furnish to the Lessor (a) an accurate statement setting forth as of the preceding December 31 the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year and (b) such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request. The Lessor, at its sole cost and expense, shall have the right by their agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance and after termination of this Lease.

9. Compliance with Laws and Rules; Maintenance; Insurance and Indemnification. Neither Lessor nor Manager makes any warranty or representation, either expressed or implied, as to the design, compliance with specifications, or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and, NEITHER LESSOR NOR MANAGER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE, OR AS TO CONDITION, COMPLIANCE WITH SPECIFICATIONS, QUALITY OR (EXCEPT AS OTHERWISE SET FORTH HEREIN) AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, OR COMPONENT THEREOF, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor, Manager and the Lessee, are to be borne by the Lessee.

The Lessee agrees, for the benefit of the Lessor, to comply in all respects with all laws of the jurisdictions in which operations involving any Unit subject to this Lease may extend, with the AAR Rules and the Safety Standards and with all rules of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over any such Unit, to the extent such laws and rules affect the operations or use of such Unit; and in the event such laws or rules require the

alteration or repairs of any such Unit, the Lessor and/or Manager will conform therewith, and will maintain the same in proper condition or operation under such laws and rules; provided, however, that the Lessor may, in its reasonable judgement based upon the cost and economic value of such repairs or alterations in relation to the then estimated fair market value of the Units, declare this Lease terminated for those so affected as of the date such repairs or alterations are required as a condition to use of the Units by Lessee.

During the term of this Lease commencing with the delivery and acceptance of the Units with respect to each, Lessor and/or Manager shall perform or cause to be performed all maintenance and repair work necessary to maintain the Units in good operating condition in conformity with all applicable laws and regulations including the AAR Rules and the Safety Standards, except that Lessee shall perform or cause to be performed the following except as otherwise provided herein:

- (1) repairs required as a result of damage caused by the Lessee, its agents, representatives, customers or independent contractors or any third party; or
- (2) repairs required because of damage caused to the Units by any corrosive or abrasive substance except aggregates loaded therein or used in connection therewith; or
- (3) repairs required because of excessive, unusual or avoidable damage caused to the Units by vibrators, sledges or other similar devices during loading or unloading operations; or
- (4) repairs required because of excessive or unbalanced loading.

If Units in possession of Lessee are in need of repairs for which Lessee is responsible hereunder, Lessee shall contact Lessor and advise, at Lessee's sole option, whether Lessee desires to perform such repairs or have such repairs performed at its expense. If Lessee decides not to repair such Units, Lessor will either repair the Units or subcontract for the repairs. Lessee shall be responsible only for the invoice price, if repairs are subcontracted, or for actual costs (but not to exceed AAR costs) if performed by Lessor.

Lessee will make the Units available to Lessor or its contractors at any facility specified by Lessor at any reasonable time and location for the purpose of maintenance inspection and to ensure regular maintenance or repairs. Lessor and/or Manager shall pay all transportation charges for moving any Unit to the repair or inspection facility designated by Lessor. Rent shall abate for any Unit requiring Lessor responsible repairs or inspection ★ business days after the Unit is delivered to the repair or inspection facility designated by Lessor; rent shall resume as of the date that such Unit is returned to the Lessee in serviceable condition. If Lessor and/or Manager is unable to perform repairs and return a Unit within a fixed period of time mutually agreed to, Lessor, at its option, will furnish Lessee a substitute Unit or eliminate the Unit from the terms, conditions and obligations of the Lease Agreement.

In the case of damage caused to any of the Units which is the responsibility under AAR Rules of a railroad and not repaired by such railroad, Lessor will perform the necessary repairs and will prepare and submit such documents as are necessary to recover the cost of such repair in accordance with AAR Rules and will perform all necessary administrative tasks in connection with such counter-billing. Lessor will be solely entitled to any sum so recovered.

If there is any dispute as to who is responsible for repairs to any Unit, the completion of such repairs by a party shall not constitute an admission of responsibility, but instead such party may still assert its claims that the other party was responsible.

Lessee will at Lessor's or Manager's request, take such reasonable action as Lessor or Manager may specify to modify operating conditions which in Lessor's reasonable opinion are causing undue and avoidable wear or damage to the Units.

Neither party will alter materially the physical structure or allow any third party to alter materially the physical structure of any of the Units without the other party's written consent.

Subject to Paragraph 7, the Lessor reserves the right to retire any Unit that in its sole opinion it deems uneconomical to repair. Lessee's obligation to pay rent shall abate for any Unit retired by Lessor as of ★

★ The figures and terms are set forth in the original lease

★ or ★ business days after the Unit is delivered to Lessor's repair or inspection facility, whichever occurs first.

Lessor may from time to time subcontract with others to perform Lessor responsible maintenance, but such subcontracts shall not relieve Lessor of its obligation hereunder to perform such maintenance.

Subject to Paragraphs 7 and 11, the Lessee agrees it will return the Units to the Lessor at the expiration of the term or sooner termination of this Lease in good order and repair, ordinary wear and tear excepted, suitable for movement in the interchange system.

Any and all additions to any Unit and any replacements thereto and of parts thereof made by the Lessee shall constitute accessions to such Unit and, without cost or expense to the Lessor, there shall be immediately vested in the Lessor the same interest therein as the interests of the Lessor in such Unit.

The Lessee will at all times during the term of this Lease, at its own expense, cause to be carried and maintained insurance in amounts and against risks comparable to those insured against by the Lessee on similar equipment owned by it including the insurance coverage referred to in the insurance certificate attached hereto as Exhibit B. Lessee will maintain, at Lessor's expense, such additional insurance as Lessor may require. All policies shall name Lessor coinsured loss payee, and shall state that insurance coverage as to the Lessor will not be affected by any act or omission of the Lessee.

The Lessee agrees to indemnify and save harmless the Lessor and Manager against any charges or claims made against the Lessor or the Manager, and against any expense, loss or liability (including but not limited to counsel fees and expenses, penalties and interest) which the Lessor or the Manager may incur in any manner (unless resulting from the Lessor's or the Manager's sole negligence) by reason of entering into or the performance of this Lease or the ownership of, or which may arise in any manner out of or as a result of the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of, any Unit (including without limitation any claims for response costs or other liabilities under any environmental law), and to indemnify and save harmless the Lessor and the

* The figures and terms are set forth in the original lease

Manager against any charge, claim, expense, loss or liability on the account of any accident (unless resulting from the Lessor's or the Manager's sole negligence) in connection with the operation, use, condition, possession or storage of such Unit resulting in damage to property or injury or death to any person. The indemnities contained in this paragraph shall survive payment or performance of all other obligations under this Lease or the termination of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all mandatory reports of which the Lessee has or reasonably should have actual knowledge, except income tax reports, to be filed by the Lessor, with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units or the leasing of the Units to the Lessee. The Lessor shall notify the Lessee of any such reports of which the Lessor has actual knowledge.

10. Liens. Lessee will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Units, any Unit or any part thereof, Lessor's title thereto, or any interest therein, except (i) any lien resulting from an independent act of or claim against Lessor which does not result from, arise out of, or relate to the leasing of the Units or this Lease or any Lease supplement or any Event of Default, (ii) liens for taxes either not yet delinquent or being contested by Lessee in good faith by appropriate proceedings and where, in Lessor's reasonable opinion, there is no danger of the sale, forfeiture or loss of the Units or any part or item thereof, and (iii) materialmen's, mechanics', workmen's, repairmen's, employees' storage or other like liens arising in the ordinary course of business, which are not delinquent or are being contested by Lessee in good faith by appropriate proceedings and where, in Lessor's (and in any assignee of Lessor's) reasonable opinion there is no danger of the sale, forfeiture or loss of the Units, or any part thereof. Lessee, at its own expense, will promptly pay, satisfy and otherwise take such actions as may be necessary to keep the Units free and clear of, and to duly discharge or eliminate or bond in a manner satisfactory to Lessor and any assignee of Lessor, any such lien not excepted above if the same shall arise at any time. Lessee will notify Lessor and any assignee of Lessor in writing promptly upon becoming aware of any tax or other lien (other than any lien excepted above) that shall attach to the Units or any Unit, and of the full particulars thereof.

11. Return of the Units Upon Expiration of Term.
As soon as practicable on or after the expiration or earlier termination of the term of this Lease with respect to any Unit, the Lessee will, at its own cost, expense and risk, at the request of the Lessor, (a) deliver possession of such Unit to the Lessor (i) upon the storage tracks of the Lessor at Sterling, Florida, or (ii) upon the lines of CSX Transportation Company, Inc. or to any other place designated by Lessor provided that Lessor shall pay any amount by which the cost of such delivery exceeds the cost of delivery to Sterling, Florida, or (b) if Lessee agrees at the time, load the Unit and send it to any destination specified by Lessor, in which case Lessor shall not be liable for costs of loading or transportation or for the cost of the loaded goods.

The delivery of the Units as hereinbefore provided is of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to deliver the Units.

12. Default. If, during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur;

(a) default shall be made in the payment of any part of the rental provided in Paragraph 3 hereof and such default shall continue for ten days after written notice is sent to Lessee;

(b) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

(c) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for thirty days after written notice from the Lessor to the Lessee specifying the default and demanding the same to be remedied;

(d) any proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements,

compositions or extension (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder), and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee, within thirty days after such proceedings, shall have been commenced;

(e) any material representation made by the Lessee herein or in any certificate or other instrument delivered under or pursuant to any provision hereof shall prove to have been false or incorrect in any material respect on the date as of which made;

then, in any such case, the Lessor, at its option may:

(i) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(ii) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon, the Lessor may in a reasonable manner and without damage to the property of the Lessee or injury to any person by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental

period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (a) as representing actual loss incurred by the Lessor, damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit which represents the then present value of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present value to be computed in each case on a basis of a ★ per annum discount, compounded annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (b) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, including, without limitation, expenses of resale or re-leasing (including incidental transportation costs incurred by Lessor).

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

13. Return of Units Upon Default. If this Lease shall terminate pursuant to Paragraph 12 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor

★ The figures and terms are set forth in the original lease

pursuant to all the provisions of Paragraph 11 above. The condition of the Units upon such return shall be as required pursuant to Paragraph 9 hereof. The delivery of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to deliver the Units.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Paragraph 13, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Unit. In connection therewith Lessee will supply Lessor with such documents as Lessor may reasonably request.

14. Assignment; Possession and Use. (a) Conditioned upon the Lessee performing all of the terms, covenants, and conditions of this Lease, the Lessor, its successors and assigns will not disturb the Lessee's peaceable and quiet possession and use of the Units during the term of this Lease, provided, that no Event of Default has occurred and is continuing. The Lessor will, however, have the right to substitute similar Units at any time provided that such substitution does not interfere with the Lessee's peaceful and quiet possession and use of the Units.

(b) This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including but not limited to the rights under Paragraphs 6, 9 and 12) shall inure to the benefit of the Lessor's assigns. Whenever the term Lessor is used in this Lease it shall apply and refer to each assignee of the Lessor.

(c) So long as the Lessee shall not be in default under this Lease, the Lessee may without any prior consent of the Lessor sublease any one or more of the Units or assign this Lease to any Affiliate, or with the prior written consent of the Lessor sublease the Units to third parties; provided, that (i) such sublease or assignment shall provide that the subject Units shall be operated and maintained in

accordance with the terms hereof; (ii) the Lessee shall provide the Lessor with 10 days advance notice of any such sublease or assignment and a copy of such sublease or assignment; (iii) such sublease shall be subject and subordinate to the terms and provisions of this Lease and the interests of the Lessor; and (iv) no such sublease or assignment shall relieve Lessee of its obligations hereunder, which shall remain those of a principal and not a surety.

(d) The Lessee represents and warrants that: (i) Lessee (or any assignee or sublessee) will not at any time during the term of this Lease use or fail to use any Unit, in such a way as to disqualify it as "Section 38 property" within the meaning of Section 48 of the Code or otherwise cause such property to be treated as used predominantly outside the United States or as tax-exempt use property, during any taxable year, for purposes of IRC § 168(g); (ii) Lessee (or any assignee or sublessee) will at all times during the term of this Lease use each Unit in such a way that for federal income tax purposes, all amounts includable in the gross income of Lessor with respect to each Unit and all deductions allowable to Lessor with respect to each Unit will be treated as derived from, or allowable to, sources within the United States; and (iii) Lessee will maintain sufficient records to verify such use, which records will be furnished to Lessor within 30 days after receipt of a written demand therefor.

(e) So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease, but the Lessee shall not assign or transfer (except as otherwise permitted by this Paragraph 14) or encumber its leasehold interest under this Lease in the Units or any of them (except to the extent that the provisions of any existing mortgage on any of the lines of railroad of the Lessee may subject such leasehold interest to the lien thereof); and, in addition, the Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge or other encumbrance (other than an encumbrance resulting from claims against the Lessor not related to the ownership of the Units) which may at any time be imposed on or with respect to any Unit or the interest of the Lessor, or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provision of the next succeeding paragraph hereof.

(f) Nothing in this Paragraph 14 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation (which shall have duly assumed the obligations hereunder of the Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety; provided, however, (i) that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease, (ii) such assignee or transferee shall be of a character so that after giving effect to such merger, consolidation or acquisition, the ability of the assignee or transferee to perform the obligations of the Lessee hereunder shall not, in the reasonable opinion of the Lessor, be adversely affected; and (iii) such assignee or transferee shall execute an assumption agreement expressly assuming all of the obligations of the Lessee hereunder (including, but not limited to, Paragraph 16 hereof).

(g) In connection with any sublease or assignment by Lessee under this Paragraph 14, whether or not Lessee is required to obtain the consent of the Lessor to any such transaction, Lessee agrees, at its expense, to cause any such assignment or sublease to be duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. 11303 in order to protect the interest of the Lessor in and to the Units under this Lease.

(h) The Lessee agrees that during the term of this Lease, the Lessee will not assign any Unit to service involving the operation and maintenance thereof outside the United States of America and that during such term of any Unit outside the United States of America will be limited to incidental and temporary use in Canada.

15. Recording. Prior to the delivery and acceptance of the Units, and in connection with any sublease or assignment permitted by Paragraph 14 hereof, the Lessor will cause this Lease and any such sublease or assignment to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. 11303. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper

protection to the satisfaction of the Lessor of its title to the Units or for the purpose of carrying out the intention of this Lease.

16. JURISDICTION; SERVICE OF PROCESS; WAIVER OF JURY TRIAL. All actions and proceedings in any way arising out of, relating to or connected with this Lease (a) in the case of any such brought by the Lessee against the Lessor shall be litigated in and only in and (b) in the case of any such brought by the Lessor against the Lessee may be litigated in, courts located in the City of New York. Such courts are convenient forums for the Lessee and Lessee submits to the personal jurisdiction of such courts. The Lessee waives personal service of process and consents that service of process upon it may be made by certified or registered mail, return receipt requested, directed to the Lessee at its address last specified for notices hereunder, and the service so made shall be deemed completed on the date of receipt (and the postal receipt shall be conclusive evidence of such date). LESSOR AND LESSEE EACH WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THEY ARE BOTH PARTIES AND THAT IN ANY WAY ARISES UNDER OR OUT OF OR IS RELATED TO OR CONNECTED WITH THIS LEASE AND WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE AND WHETHER ARISING OR ASSERTED BEFORE OR AFTER THE LEASE DATE OR BEFORE OR AFTER THE PAYMENT, OBSERVANCE AND PERFORMANCE IN FULL OF ALL OBLIGATIONS UNDER THIS LEASE.

17. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mail, certified or registered return receipt requested, addressed as follows:

If to the Lessor: IBJ Schroder Leasing Company
One State Street
New York, NY 10004
ATTN: Gerard D. Cannie
Vice President, Operations

If to the Lessee: Rinker Materials Corporation
1501 Belvedere Road
West Palm Beach, FL 33406
ATTN: Laurence Freedman,
President - South Region

If to the Manager: Helm Financial Corporation
One Embarcadero Center, 33rd Floor
San Francisco, CA 94111
ATTN: President

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

18. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition of unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

19. Effect and Modification of Lease. This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

20. Successors and Assigns. This Lease will bind and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

21. Execution. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

22. Law Governing. This Lease shall be construed, and all questions concerning its performance and the rights and remedies of the parties hereunder shall be determined, in accordance with the laws of New York; provided, however, that the parties shall be entitled to all rights conferred by U.S.C. 11303.

23. Attorney's Fees. Notwithstanding any other provision of this Lease, in the event of any litigation between Lessor and Lessee with regard to any aspect of this Lease or the use or maintenance of any of the Units, the prevailing party shall be entitled to all reasonable attorney's fees and costs incurred, including at the appellate level.

IN WITNESS WHEREOF, the Lessor and the Lessee, each pursuant to due authority, have caused these presents to be signed in their respective names as of the date first above written.

IBJ SCHRODER LEASING CORPORATION

(LESSOR)

By

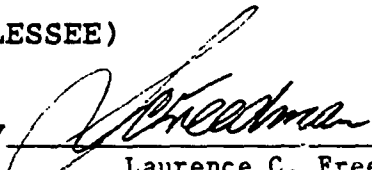

GERARD D. CANNIE

Title VICE PRESIDENT - OPERATIONS

RINKER MATERIALS CORPORATION

(LESSEE)

By


Laurence C. Freedman

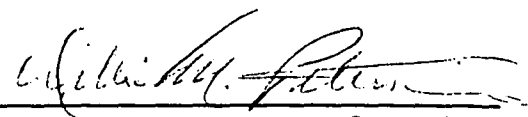
Title President, South Region

Accepted:

HELM FINANCIAL CORPORATION

(MANAGER)

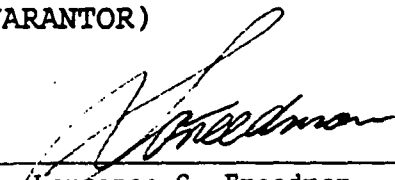
By


Title Executive Vice President

RMC HOLDINGS (USA) LTD.

(GUARANTOR)

By


Laurence C. Freedman
Title Vice-President

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 30th day of September, 1988, before me personally appeared Gerard D. Canine, to me personally known, who, being by me duly sworn, says that he is Vice President of IBJ SCHRODER LEASING CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Helen B. Emmerich
Notary Public

My Commission Expires:

HELEN B. EMMERICH
NOTARY PUBLIC, State of New York
No. 41-485608
Qualified in Queens County
Certificate Filed in New York County
Commission Expires March 31, 1990

[Notarial Seal]

STATE OF FLORIDA)
) ss.:
COUNTY OF PALM BEACH)

On this 30th day of September, 1988, before me personally appears Laurence C. Freedman, to me personally known, who being by me duly sworn says that he is a President, S. Region of RINKER MATERIALS CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its President and Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jeanne Helen Perillo
Notary Public

Notary Public, State of Florida

My Commission Expires: My Commission Expires June 3, 1989

Bonded Through Fidelity Insurance, Inc.

[Notarial Seal]

STATE OF California)
) ss.:
COUNTY OF San Francisco)

On this 1st day of October, 1988, before me personally appeared William M. Peterson, to me personally known, who, being by me duly sworn, says that he is E.V.P. of HELM FINANCIAL CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Elena F. Gary
Notary Public

My Commission Expires: July 24, 1992

[Notarial Seal]



STATE OF FLORIDA)
) ss.:
COUNTY OF PALM BEACH)

On this 30th day of September, 1988, before me personally appears Laurence C. Freedman, to me personally known, who being by me duly sworn says that he is a Vice-President of RMC HOLDINGS (USA) LTD., that said instrument was signed and sealed on behalf of said corporation by authority of its President and Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jeanne Helen Perille
Notary Public

My Commission Expires: My Commission Expires June 3, 1989
Notary Public, State of Florida
Bonded Thru Troy Fair Insurance, Inc.

[Notarial Seal]

CERTIFICATE OF ACCEPTANCE

The undersigned, a duly authorized representative of RINKER MATERIALS CORPORATION (the "Lessee"), does hereby certify that he/she has caused to be inspected and, on the date set out below, has accepted on behalf of the Lessee the following described Units of equipment, which Units are in good order, condition and repair (except for latent defects) and conform in all respects to the terms, provisions, requirements and standards of the certain Lease of Railroad Equipment Agreement dated as of _____ between IBJ Schroder Leasing Corporation and the Lessee.

<u>Description</u>	<u>No. of Cars</u>	<u>Car Markings</u>	<u>Date Accepted</u>
100-ton, 2,301 cubic foot capacity open top hopper cars			